

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Stanley Moultrie,	)	C/A No.: 9:09-2230-JFA-BM
	)	
Plaintiff,	)	
vs.	)	<b>ORDER</b>
	)	
South Carolina Department of Corrections;	)	
Turbeville Correctional Institution; Kenneth	)	
Sharp (Major); Gregory Knowlin (Warden);	)	
Capt. Angela Brown (DHO Hearing Officer	)	
in charge of Sanctions),	)	
	)	
Defendants.	)	
_____	)	

The *pro se* plaintiff, Stanley Moultrie, is presently incarcerated at the Turbeville Correctional Institution of the South Carolina Department of Corrections (“SCDC”). He initiated this action pursuant to 42 U.S.C. § 1983 contending that the defendants violated his constitutional rights. Specifically, the plaintiff alleges that the defendants charged him with sexual misconduct and placed him in lock-up.

The Magistrate Judge assigned to this action<sup>1</sup> has prepared a Report and Recommendation wherein he suggests that because the plaintiff has not exhausted his

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<sup>1</sup> The Magistrate Judge’s review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

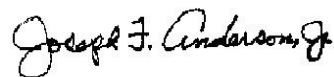
administrative remedies, this case should be summarily dismissed. The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation.

The plaintiff was advised of his right to file objections to the Report and Recommendation, which was entered on the docket on September 4, 2009. The plaintiff did not file timely objections.

Here, with respect to the plaintiff's case, it is clear from the complaint that the plaintiff has not exhausted his administrative remedies as required. Although the plaintiff filed an administrative grievance concerning the claims raised herein, he filed the grievance less than a month before drafting his complaint in this case so that such grievance likely remains pending.

After a careful review of the record, the applicable law, and the Report and Recommendation, the court finds the Magistrate Judge's recommendation to be proper. Accordingly, the Report and Recommendation is incorporated herein by reference and this action is dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "Joseph F. Anderson, Jr." in a cursive script.

Joseph F. Anderson, Jr.  
United States District Judge

September 28, 2009  
Columbia, South Carolina